

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

United States of America,

Plaintiff,

v.

Criminal Case No. 07-20283

Marcus Deangelo Lewis,

Honorable Sean F. Cox

Defendants.

ORDER DENYING RULE 36 MOTION

Defendant Marcus Deangelo Lewis (“Lewis”) pleaded guilty to Counts One and Two of the Superceding Indictment. This Court sentenced Defendants on May 20, 2009.

Lewis filed an appeal on November 22, 2011, which was denied in an Opinion & Order issued on October 31, 2012.

Acting *pro se*, Lewis filed a “Motion For Correction Of Presentence Investigation Worksheet C” (Docket Entry No 393) on July 18, 2014.

Although Lewis’s motion is not titled as such, the relief requested appears consistent with a motion to vacate sentence under 28 U.S.C. § 2255. On October 20, 2014, this Court issued an “Order Notifying Defendant Of Recharacterization And Directing Defendant To File Memorandum” (Docket Entry No 394) wherein the Court ordered Lewis to file a one-page memorandum indicating whether he agrees with the Court’s intended characterization of his motion as one brought under § 2255.

On October 31, 2014, Lewis filed a One-Page Memorandum (Docket Entry No. 397) that indicates that his Motion is one brought under Fed. R. Crim. P. 36, rather than 28 U.S.C. § 2255.

As such, the Court will address the motion as one brought pursuant to Fed. R. Crim. P. 36.

Rule 36 of the Federal Rules of Criminal Procedure provides that “[a]fter giving notice it considers appropriate, the court may at any time correct a clerical error in a judgment, order, or other part of the record, or correct an error in the record arising from oversight or omission.”

Fed. R. Crim P. 36. “Rule 36 has been consistently interpreted as dealing only with clerical errors,” and a “clerical error must not be one of judgment or even of misidentification, but merely of recitation, of the sort that a clerk or amanuensis might commit, mechanical in nature.”

United States v. Robinson, 368 F.3d 653, 656 (6th Cir. 2004).

In his motion, however, Lewis does not merely seek to correct a clerical error. Rather, he challenges the substance of a portion of a presentence report.

Accordingly, IT IS ORDERED that Lewis’s Rule 36 Motion is DENIED.

IT IS SO ORDERED.

Dated: November 3, 2014

S/ Sean F. Cox

Sean F. Cox

U. S. District Judge

I hereby certify that on November 3, 2014, the foregoing document was served on counsel of record via electronic means and upon Marcus Deangelo Lewis via First Class mail at the address below:

Marcus Deangelo Lewis #12882-039

FCI Milan

P. O. Box 1000

Milan, MI 48160

S/ J. McCoy

Case Manager